

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASBIR KAUR,

Plaintiff,

v.

MARTIN O'MALLEY,  
COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

Case No. 1:24-cv-00397-HBK<sup>1</sup>

ORDER GRANTING AWARD AND  
PAYMENT OF ATTORNEYS FEES UNDER  
THE EQUAL ACCESS TO JUSTICE ACT

(Doc. No. 15)

Pending before the Court is the parties' stipulated motion for award of attorney's fees filed on August 20, 2024. (Doc. No. 15). The parties agree to an award of attorney's fees and expenses to Plaintiff's attorney, Francesco P. Benavides of the Law Offices of Francesco Benavides, in the amount of \$7,500 in attorney fees and expenses, pursuant to the Equal Access to Justice Act ("EAJA"), and costs in the amount of \$405. 28 U.S.C. §§ 1920, 2412. (*Id.*).

On July 30, 2024, this Court granted the parties' stipulated motion for a remand and remanded the case pursuant to sentence four of 42 U.S.C. § 405(g) to the Commissioner for further administrative proceedings. (Doc. No. 13). Judgment was entered the same day. (Doc.

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<sup>1</sup> Both parties have consented to the jurisdiction of a magistrate judge in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 8).

1 No. 14). Plaintiff now requests an award of fees as the prevailing party. *See* 28 U.S.C. § 2412(a)  
2 & (d)(1)(A); Fed. R. Civ. P. 54(d)(1); *see* 28 U.S.C. § 1920; *cf. Shalala v. Schaefer*, 509 U.S.  
3 292, 300-02 (1993) (concluding that a party who wins a sentence-four remand order under 42  
4 U.S.C. § 405(g) is a prevailing party). The Commissioner does not oppose the requested relief.

5 The EAJA provides for an award of attorney fees to private litigants who both prevail in  
6 civil actions (other than tort) against the United States and timely file a petition for fees. 28  
7 U.S.C. § 2412(d)(1)(A). Under the Act, a court shall award attorney fees to the prevailing party  
8 unless it finds the government's position was "substantially justified or that special circumstances  
9 make such an award unjust." *Id.* Here, the government did not show its position was  
10 substantially justified and the Court finds there are not special circumstances that would make an  
11 award unjust.

12 Based on the stipulation, the Court finds an award of \$7,500 in attorney fees and  
13 expenses, and \$405 in costs, is appropriate. EAJA fees, expenses, and costs are subject to any  
14 offsets allowed under the Treasury Offset Program ("TOP"), as discussed in *Astrue v. Ratliff*, 532  
15 U.S. 1192 (2010). If the Commissioner determines upon effectuation of this Order that Plaintiff's  
16 EAJA fees are not subject to any offset allowed under the TOP, the fees shall be delivered or  
17 otherwise transmitted to Plaintiff's counsel.

18 Accordingly, it is **ORDERED**:

19 1. The stipulated motion for attorney fees and expenses (Doc. No. 15) is **GRANTED**.  
20 2. The Commissioner is directed to pay to Plaintiff as the prevailing party EAJA fees in  
21 the amount of \$7,500 in attorney fees and expenses and \$405 in costs. Unless the Department of  
22 Treasury determines that Plaintiff owes a federal debt, the government shall make payment of the  
23 EAJA fees to Plaintiff's counsel, Francesco P. Benavides of the Law Offices of Francesco  
24 Benavides, in accordance with Plaintiff's assignment of fees and subject to the terms of the  
25 stipulated motion.

26 Dated: August 21, 2024

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE